

---

## State Water Resources Control Board

APR 13 2017

Ms. Kimberly D. Bose, Secretary  
Federal Energy Regulatory Commission  
888 First Street, NE  
Washington, D.C. 20426

Dear Secretary Bose:

### COMMENTS ON THE PRE-APPLICATION DOCUMENT AND SCOPING DOCUMENT 1 FOR KAWEAH HYDROELECTRIC PROJECT, FEDERAL ENERGY REGULATORY COMMISSION PROJECT NO. 298; TULARE COUNTY

Southern California Edison Company (SCE or Licensee) own and operate the Kaweah Hydroelectric Project (Project), also known as Federal Energy Regulatory Commission (Commission) Project No. 298. On December 14, 2016, the Licensee filed the Project's Pre-Application Document (PAD) with the Commission. On February 10, 2017, the Commission issued Scoping Document 1 (SD1) for the Project. State Water Resources Control Board (State Water Board) staff's comments on the Licensee's PAD and the Commission's SD1 are provided in this letter.

Items 1 and 3 of the Pre-Application Filing Activities Under the Integrated Licensing Process (ILP) section of the Memorandum of Understanding (MOU) executed between the Commission and State Water Board on November 19, 2013<sup>1</sup> apply to this phase of the ILP process. Based upon the Process Plan and Schedule put forth by the Licensee in their PAD, State Water Board staff provides the following initial estimate of process milestones for water quality certification:

- Application for water quality certification: May 2020
- Issuance of draft water quality certification for public review: May 2022
- Issuance of final water quality certification: December 2022

State Water Board staff will work with Commission staff to refine these process milestones. State Water Board staff requests the ILP Process Plan for this Project so that the water quality certification milestones can be integrated into the Commission's plan. As outlined in Item 3 of the MOU, State Water Board staff will actively participate in study plan development.

---

<sup>1</sup> A copy of the MOU is available online at:  
[http://www.waterboards.ca.gov/waterrights/water\\_issues/programs/water\\_quality\\_cert/ferc\\_mou/index.shtml](http://www.waterboards.ca.gov/waterrights/water_issues/programs/water_quality_cert/ferc_mou/index.shtml).

### **Regulatory Authority**

Before the Commission can issue a new license, the Licensee must obtain water quality certification from the State Water Board pursuant to section 401(a)(1) of the federal Clean Water Act (CWA) (33 U.S.C. §1341(a)(1)). Section 401 of the CWA requires any applicant for a federal license or permit, which may result in any discharge to navigable waters, to obtain water quality certification from the State Water Board that the discharge will comply with the applicable provisions of sections 301, 302, 303, 306, and 307 of the CWA.

Under section 303 of the CWA and under the Porter-Cologne Water Quality Control Act, the Central Valley Regional Water Quality Control Board adopted, and the State Water Board and United States Environmental Protection Agency (USEPA) approved, the *Water Quality Control Plan for the Tulare Lake Basin* (Basin Plan). The Basin Plan designates the beneficial uses of waters to be protected along with the water quality objectives necessary to protect those uses. The Basin Plan identifies the following beneficial uses for the Kaweah River, upstream of Lake Kaweah: municipal and domestic supply (MUN); power (POW); contact recreation (REC-1); non-contact recreation (REC-2); warm freshwater habitat (WARM); cold freshwater habitat (COLD); wildlife habitat (WILD); rare, threatened, or endangered species (RARE); spawning, reproduction, and/or early development (SPWN); and freshwater replenishment (FRSH). These beneficial uses also apply to the tributaries of the Kaweah River, which includes the Marble Fork Kaweah River, the Middle Fork Kaweah River, and the East Fork Kaweah River.

The beneficial uses together with the water quality objectives that are contained in the Basin Plan, along with state and federal anti-degradation requirements, constitute California's water quality standards under section 303 of the CWA. The water quality objectives set or describe the water quality limits necessary to achieve and protect the beneficial uses. The State Water Board must evaluate the impacts of the Project on the associated water bodies to determine whether the Project complies with all applicable water quality objectives in the Basin Plan, and protects the designated beneficial uses. Water quality certification also may address a project's effects on public trust resources. In developing a water quality certification the State Water Board looks not only on proposed modifications to Project operations from the existing condition, but also on whether past, existing, or future operations may impair or degrade water quality.

The Licensee must file an application for water quality certification once the Commission issues the Notice of Ready for Environmental Analysis. A complete application for a water quality certification must include a description of any steps that have been, or will be taken to avoid, minimize, or compensate for loss of or significant adverse impacts to beneficial uses of water. (Cal. Code Regs. tit. 23, § 3856, subd. (h)(6)). If the Project does not comply with one or more of the water quality objectives or criteria, then the Licensee must describe the actions that they will take to bring the Project into compliance in order to protect and maintain the beneficial uses of the State's waters. During the licensing process, State Water Board staff will act in an advisory role to inform the Licensee of the information necessary for a complete application for water quality certification. Filing requirements for an application for water quality certification are specified in California Code of Regulations, title 23, section 3856. The State Water Board may request additional information to clarify, amplify, correct, or otherwise supplement the contents of the application (Cal. Code Regs., tit. 23, § 3836.). State Water Board staff cannot prejudge the outcome of any proceeding before the State Water Board on an application for water quality certification.

## **Pre-Application Document Comments**

### **General Comments**

State Water Board staff appreciates the early outreach and communication protocols developed by SCE. The development of a relicensing website is helpful in fostering collaboration and openness when relicensing participants are preparing for meetings. State Water Board staff recommends that the Licensee make every effort to provide remote access to meetings. Many of the stakeholders interested in this Project reside in and around the area of Three Rivers and may be unable to make every meeting. Additionally, many of these stakeholders have jobs or other commitments which restrict their daytime availability and/or ability to travel. As a result, many of these stakeholders may find it difficult to attend relicensing meetings, especially if any future meetings are held further than Visalia. State Water Board staff recommends the Licensee provide a conference call-in line for every relicensing meeting and a webinar when appropriate. Such provisions will help ensure effective communication and the maximum level of participation.

### **Information Requests**

State Water Board staff requests that Licensee provide relicensing participants the record of unimpaired and managed hydrological data available for the Project. Typically this data is made available in DSS format or through Microsoft Excel spreadsheets and is usefully in comparing and evaluation of any alternative flow regimes and ramping rates to the historical hydrology for the Project. This information may already be available or could require more substantial development. State Water Board staff is amendable to discussing the availability and limitations of this information.

Page 4.5-5 of the PAD discusses the existing benthic macroinvertebrates information within the Project area. Specifically, this section discusses a 2007 Southern California Edison Study<sup>2</sup> and a study in 1983 by Jordan/Avent et al<sup>3</sup>. State Water Board staff would like to request that these studies be provided to relicensing participants. This information is particularly important in evaluating the sampling and analysis tools proposed by the Licensee. In general, consistently in methodologies is required to compare data and findings between sampling events.

### **Confidential Information**

State Water Board staff would like to request copies of confidential information related to Kaweah Project special-status aquatic species. This information is critical in understanding sensitive Project locations and how best to work with the Licensee and relicensing participants in being protective of the resource.

---

<sup>2</sup> 2007. Aquatic Studies Report for the Kaweah No. 3 Hydroelectric Project. Prepared in Support of Southern California Edison Company Application for Renewal of Special Use Permit No. PWFA-SEKI-6000-095 to Continue Operation of the Kaweah No. 3 Hydroelectric Project. Prepared by Entrix, Inc.

<sup>3</sup> 1983. A study to evaluate the impacts of the Kaweah No. 3 hydroelectric facility on the resources of Sequoia National Park. Jordan/Avent & Associates, Jones & Stokes Associates, and D. Abell. 171 pp + bibliography and appendices.

In addition, State Water Board staff would like to request A History and Significance Evaluation of the Kaweah Hydroelectric System, Tulare County, California (Lehman, et al. 1989)<sup>4</sup>.

## **Scoping Document 1 Comments**

### **Applicable Comprehensive Plans**

Section 9 of SD1 included the following citation for potential comprehensive plans;

*California State Water Resources Control Board. 1995. Water Quality Control Plan Report. Sacramento, California. Nine Volumes.*

State Water Board staff believes this is in reference to the *San Francisco Bay /Sacramento-San Joaquin Delta Estuary Water Quality Control Plan (Bay-Delta Plan)*. The State Water Board staff recommends the reference to the Bay-Delta Plan be replaced with the Tulare Lake Basin Water Quality Control Plan, as the Kaweah River does not drain into the San Joaquin River.

### **Study Plan Development**

The information developed through the implementation of study plans will not only be used by the Federal Energy Regulatory Commission (Commission) to develop license conditions and fulfill requirements under the National Environmental Policy Act (NEPA), but also by other agencies that must take permitting actions during the proceeding. This information will assist the State Water Board in developing water quality certification conditions to ensure compliance with the Clean Water Act and other appropriate requirements of state law. The State Water Board will use these studies to fulfill the requirements of the California Environmental Quality Act (CEQA). The State Water Board will act as lead agency for CEQA.

As a mandatory conditioning agency under the Commission's relicensing process and the lead agency for CEQA, the State Water Board will act in an advisory role to inform the Licensee of the information that it believes is necessary to fulfill the requirements of CEQA and federal and state water quality laws, and to develop a complete application for water quality certification.

State Water Board staff appreciates the effort put forth by the Licensee to provide robust draft study plans in advance of the Proposed Study Plan. In general State Water Board staff supports the draft plans and looks forward to working with the Licensee to continue to refine these study plans to ensure they adequately analyze potential Project impacts and meet the regulatory needs of all resource agencies. The following is a list of studies proposed by the Licensee:

#### **Aquatic Resources**

- AQ-1 Instream Flow Technical Study Plan
- AQ-2 Fish Population Technical Study Plan
- AQ-3 Macroinvertebrate Technical Study Plan

---

<sup>4</sup> 1989. A History and Significance Evaluation of the Kaweah Hydroelectric System, Lehman, Susan C., Williams, James C., Hicks, Robert A., Blount, Clinton M. Tulare County, California. Submitted to Environmental Affairs Division, Southern California Edison Company, Rosemead, California. October 1989.

AQ-4 Water Temperature Technical Study Plan  
AQ-5 Geomorphology Technical Study Plan  
AQ-6 Water Quality Technical Study Plan  
AQ-7 Special-status Amphibians and Aquatic Reptiles Technical Study Plan  
AQ-8 Fish Passage Technical Study Plan  
AQ-9 Entrainment Technical Study Plan

**Cultural Resources**

CUL-1 Cultural Technical Study Plan

**Land Resources**

LAND-1 Transportation Technical Study Plan  
LAND-2 Visual and Noise Technical Study Plan

**Recreation Resources**

REC-1 Recreation Technical Study Plan

**Terrestrial Resources**

TERR-1 Botanical Technical Study Plan  
TERR-2 Wildlife Technical Study Plan

If you have questions regarding this letter, please contact me at (916) 322-6796 or by email at [nathan.fisch@waterboards.ca.gov](mailto:nathan.fisch@waterboards.ca.gov). Written correspondence should be directed to:

State Water Resources Control Board  
Division of Water Rights  
Water Quality Certification Program  
Attn: Nathan Fisch  
P.O. Box 2000  
Sacramento, CA 95812

Sincerely,  
ORIGINAL SIGNED BY:

Nathan Fisch  
Environmental Scientist  
Water Quality Certification Program  
Division of Water Rights

ecc:

Mr. David Moore  
Project Lead  
Southern California Edison Company  
1515 Walnut Grove Avenue  
Rosemead, CA 91770

Mr. Clay Rodgers  
Assistant Executive Officer, Fresno Office  
Central Valley RWQCB  
1685 E Street,  
Fresno, CA 93706-2007